

periodically but not less than once every 5 years. Additionally, such testing will be subject to the limitations imposed by Congress. The program for each DoD Component, as well as requests for waiver, shall be submitted for approval by the DUSD(P).

§ 159a.84 Codewords and nicknames.

Excluding those Programs specified in § 159a.81 (a), (b), and (c), each Special Access Program will be assigned a classified code word, or an unclassified nickname, or both. DoD Components other than Military Departments may request codewords and nicknames from the DUSD(P) individually or in block. If codewords or nicknames are obtained in block, however, the issuing Component shall promptly notify the DUSD(P) upon activation and assignment.

§ 159a.85 Reporting of special access programs.

(a) *Report of Establishment.* Reports to the Secretary of the Military Department or the DUSD(P) required under § 159a.81 for Special Access Programs shall include:

- (1) The responsible department, agency, or DoD Component, including office identification;
- (2) The codeword and/or nickname of the Program;
- (3) The relationship, if any, to other Special Access Programs in the Department of Defense or other government agencies;
- (4) The rationale for establishing the Special Access Program including the reason why normal management and safeguarding procedures for classified information are inadequate;
- (5) The estimated number of persons granted special access in the responsible DoD Component; other DoD Components; other government agencies; contractors; and the total of such personnel;
- (6) A summary statement pertaining to the Program security requirements with particular emphasis upon those personnel security requirements governing access to Program information;
- (7) The date of Program establishment;
- (8) The estimated number and approximate dollar value, if known, of

carve-out contracts that will be or are required to support the Program; and

(9) The DoD Component official who is the point of contact (last name, first name, middle initial; position or title; mailing address; and telephone number).

(10) A security plan and appropriate security classification guide and notification that a proper DD Form 254, "Contract Security Classification Specification," has been issued to contractors participating in the Program.

(b) *Annual Reports.* DoD Component annual reports from other than the Military Departments to the DUSD(P) shall be submitted not later than January 31 of each year, showing the changes in information provided under paragraph (a) of this section, as well as the date of last review. Annual reports shall reflect *actual* rather than *estimated* numbers of carve-out contracts and persons granted access and shall summarize the results of the inspections and audits required by § 159a.82(a). Reports from the Military Departments which have approval authority will summarize the required reviews which have been conducted during the year by the central offices, to include details and numbers of carve-out contracts associated with approved Special Access Programs and their overall security posture and numbers of approved Programs by type. Additionally, the Military Department Secretaries authorized to approve such Programs shall furnish a name listing, by unclassified nickname if practicable, or approved Special Access Programs under their cognizance, and they will report any changes to the listing as they occur pursuant to the notification requirements of § 159a.81(d)(3), that is, additions, deletions, and corrections to the DUSD(P). The effective date of information in the annual reports shall be December 31.

(c) *Termination Reports.* The DUSD(P) shall be notified upon termination of a Special Access Program.

§ 159a.86 Accounting for special access programs.

Each of the central offices which must be identified in accordance with § 159a.83(a) shall maintain a complete

listing of currently approved DoD Special Access Programs which encompasses the information outlined in § 159a.85(a). These listings shall be readily available to the DUSD(P) or his designated representatives.

§ 159a.87 Limitations on access.

Access to data reported under this subpart shall be limited to the DUSD(P) and the minimum number of properly indoctrinated staff necessary to perform the functions assigned the DUSD(P) herein. Access may not be granted to any other person for any purpose without the approval of the DoD Components sponsoring the Special Access Programs concerned.

§ 159a.88 “Carve-Out” contracts.

(a) The Secretaries of the Military Departments and the DUSD(P), or their designees, shall ensure that, in those Special Access Programs involving contractors, special access controls are made applicable by legally binding instruments.

(b) To the extent necessary for DIS to execute its security responsibilities with respect to Special Access Programs under its security cognizance, DIS personnel shall have access to all information relating to the administration of these Programs.

(c) Excluding those Programs specified in § 159a.81(c), the use of “carve-out” contracts that relieve the DIS from inspection responsibility under the Defense Industrial Security Program is prohibited unless:

(1) Such contract supports a Special Access Program approved and administered under § 159a.81;

(2) Mere knowledge of the existence of a contract or of its affiliation with the Special Access Program is classified information; and

(3) Carve-out status is approved for each contract by the Secretary of a Military Department, the Director, NSA, the DUSD(P), or their designees.

(d) Approval to establish a “carve-out” contract must be requested from the Secretary of a Military Department, or designee(s), the Director, NSA, or designee(s), or in the case of other DoD Components, from the DUSD(P). Approved “carve-out” contracts shall be assured the support nec-

essary for the requisite protection of the classified information involved. The support shall be specified through a system of controls that shall provide for:

(1) A written security plan, oral waivers of which are prohibited except in critical situations that must be documented as soon as possible after the fact.

NOTE: The plan must identify that DD Forms 254 have been distributed to the Defense Investigative Service as outlined in DoD Directive 5205.7.

(2) Professional security personnel at the sponsoring DoD Component performing security inspections at each contractor’s facility which shall be conducted, at a minimum, with the frequency prescribed by paragraph 4-103 of DoD 5220.22-R;

(3) “Carve-out” contracting procedures;

(4) A central office of record; and

(5) An official to be the single point of contact for security control and administration. DoD Components other than the Military Departments and NSA shall submit such appropriate rationale and security plan along with requests for approval to the DUSD(P).

(e) An annual inventory of carve-out contracts shall be conducted by each DoD Component which participates in Special Access Programs.

(f) This subsection relates back to the date of execution for each contract to which carve-out contracting techniques are applied. The carve-out status of any contract expires upon termination of the Special Access Program which it supports.

§ 159a.89 Oversight reviews.

(a) DUSD(P) shall conduct oversight reviews, as required, to determine compliance with this subpart.

(b) Pursuant to statutory authority, the Inspector General, Department of Defense, shall conduct oversight of Special Access Programs.

Subpart N—Program Management

§ 159a.91 Executive branch oversight and policy direction.

(a) *National Security Council.* Pursuant to the provisions of E.O. 12356, the